APPENDIX

1. AN ACT OF MARCH 2, 1867. CHAPTER CLIII
(14 Statutes at Large 428-430)

An Act to provide for the more efficient Government of the Rebel States.

Whereas no legal State governments or adequate protection for life or property now exists in the rebel States of Virginia, North Carolina, South Carolina, Georgia, Mississippi, Alabama, Louisiana, Florida, Texas, and Arkansas; and whereas it is necessary that peace and good order should be enforced in said States until loyal and republican State governments can be legally established: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That said rebel States shall be divided into military districts and made subject to the military authority of the United States as hereinafter prescribed, and for that purpose Virginia shall constitute the first district; North Carolina and South Carolina the second district; Georgia, Alabama, and Florida the third district; Mississippi and Arkansas the fourth district; and Louisiana and Texas the fifth district.

* * *

SEC. 5. And be it further enacted, That when the people of any one of said rebel States shall have formed a constitution of government in conformity with the Constitution of the

United States in all respects, framed by a convention of delegates elected by the male citizens of said State, twenty-one years old and upward, of whatever race, color, or previous condition, who have been resident in said State for one year previous to the day of such election, except such as may be disfranchised for participation in the rebellion or for felony at common law, and when such constitution shall provide that the elective franchise shall be enjoyed by all such persons as have the qualifications herein stated for electors of delegates, and when such constitution shall be ratified by a majority of the persons voting on the question of ratification who are qualified as electors for delegates, and when such constitution shall have been submitted to Congress for examination and approval, and Congress shall have approved the same, and when said State, by a vote of its legislature elected under said constitution, shall have adopted the amendment to the Constitution of the United States, proposed by the Thirty-ninth Congress, and known as article fourteen, and when said article shall have become a part of the Constitution of the United States, said State shall be declared entitled to representation in Congress, and senators and representatives shall be admitted therefrom on their taking the oath prescribed by law, and then and thereafter the preceding sections of this act shall be inoperative in said State: **Provided,** That no person excluded from the privilege of holding office by said proposed amendment to the Constitution of the United

States, shall be eligible to election as a member of the convention to frame a constitution for any of said rebel States, nor shall any such person vote for members of such convention.

2. AN ACT OF MARCH 22, 1867. CHAPTER VI (15 Statutes at Large 1-5)

An Act supplementary to an Act entitled "An Act to provide for the more efficient Government of the Rebel States," passed March second, eighteen hundred and sixty-seven, and to facilitate Restoration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before the first day of September, eighteen hundred and sixty-seven, the commanding general in each district defined by an act entitled, "An act to provide for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, shall cause a registration to be made of the male citizens of the United States, twenty-one years of age and upwards, resident in each county or parish in the State or States included in his district, which registration shall include only those persons who are qualified to vote for delegates by the act aforesaid, and who shall have taken and subscribed the following oath or affirmation: "I, ———, do solemnly swear (or affirm), in the presence of Almighty God, that I am a citizen of the State of ———; that I have resided in

said State for ————, months next preceding this day, and now reside in the county of ————, or the parish of ————, in said State (as the case may be); that I am twenty-one years old; that I have not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony committed against the laws of any State or of the United States; that I have never been a member of any State legislature, nor held any executive or judicial office in any State and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I have never taken an oath as a member of Congress of the United States, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; that I will faithfully support the Constitution and obey the laws of the United States, and will, to the best of my ability, encourage others so to do, so help me God"; which oath or affirmation may be administered by any registering officer.

SEC. 2. And be it further enacted, That after the completion of the registration hereby provided for in any State, at such time and places therein as the commanding general shall appoint and direct, of which at least thirty

days' public notice shall be given, an election shall be held of delegates to a convention for the purpose of establishing a constitution and civil government for such State loyal to the Union, said convention in each State, except Virginia, to consist of the same number of members as the most numerous branch of the State legislature of such State in the year eighteen hundred and sixty, to be apportioned among the several districts, counties, or parishes of such State by the commanding general, giving to each representation in the ratio of voters registered as aforesaid as nearly as may be. The convention in Virginia shall consist of the same number of members as represented the territory now constituting Virginia in the most numerous branch of the legislature of said State in the year eighteen hundred and sixty, to be apportioned as aforesaid.

SEC. 3. And be it further enacted, That at said election the registered voters of each State shall vote for or against a convention to form a constitution therefor under this act. Those voting in favor of such a convention shall have written or printed on the ballots by which they vote for delegates, as aforesaid, the words "For a convention; and the commanding general to convention shall have written or printed on such ballots the words "Against a convention." The persons appointed to superintend said election, and to make return of the votes given thereat, as herein provided, shall count and make return of the votes given for and against

a convention; and the commanding general to whom the same shall have been returned shall ascertain and declare the total vote in each State for and against a convention. If a majority of the votes given on that question shall be for a convention, then such convention shall be held as hereinafter provided; but if a majority of said votes shall be against a convention, then no such convention shall be held under this act: **Provided,** That such convention shall not be held unless a majority of all such registered voters shall have voted on the question of holding such convention.

SEC. 4. And be it further enacted, That the commanding general of each district shall appoint as many boards of registration as may be necessary, consisting of three loyal officers or persons, to make and complete the registration, superintend the election, and make return to him of the votes, list of voters, and of the persons elected as delegates by a plurality of the votes cast at said election; and upon receiving said returns he shall open the same, ascertain the persons elected as delegates, according to the returns of the officers who conducted said election, and make proclamation thereof; and if a majority of the votes given on that question shall be for a convention, the commanding general, within sixty days from the date of election, shall notify the delegates to assemble in convention, at a time and place to be mentioned in the notification, and said convention, when organized, shall proceed to frame a

constitution and civil government according to the provisions of this act, and the act to which it is supplementary; and when the same shall have been so framed, said constitution shall be submitted by the convention for ratification to the persons registered under the provisions of this act at an election be be conducted by the officers or persons appointed or to be appointed by the commanding general, as hereinbefore provided, and to be held after the expiration of thirty days from the date of notice thereof, to be given by said convention; and the returns thereof shall be made to the commanding general of the district.

SEC. 5. And be it further enacted, That if, according to said returns, the constitution shall be ratified by a majority of the votes of the registered electors qualified as herein specified, cast at said election, at least one half of all the registered voters voting upon the question of such ratification, the president of the convention shall transmit a copy of the same, duly certified, to the President of the United States, who shall forthwith transmit the same to Congress, if then in session, and if not in session, then immediately upon its next assembling; and if it shall moreover appear to Congress that the election was one at which all the registered and qualified electors in the State had an opportunity to vote freely and without restraint, fear, or the influence of fraud, and if the Congress shall be satisfied that such constitution meets the approval of a majority of all the

qualified electors in the State, and if the said constitution shall be declared by Congress to be in conformity with the provisions of the act to which this is supplementary, and the other provisions of said act shall have been complied with, and the said constitution shall be approved by Congress, the State shall be declared entitled to representation, and senators and representatives shall be admitted therefrom as therein provided.

* * *

3. AN ACT OF JUNE 25, 1868. CHAPTER LXX
(15 Statutes at Large 73-74)

An Act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida, to Representation in Congress.

WHEREAS the people of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida have, in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March second, eighteen hundred and sixty-seven, and the acts supplementary thereto, framed constitutions of State government which are republican, and have adopted said constitutions by large majorities of the votes cast at the elections held for the ratification or rejection of the same: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of Amer-

ica **in Congress assembled,** That each of the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida, shall be entitled and admitted to representation in Congress as a State of the Union when the legislature of such State shall have duly ratified the amendment to the Constitution of the United States proposed by the Thirty-ninth Congress, and known as article fourteen, upon the following fundamental conditions: That the constitutions of neither of said States shall ever be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote in said State, who are entitled to vote by the constitution thereof herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under laws equally applicable to all the inhabitants of said State: **Provided,** That any alteration of said constitution may be made with regard to the time and place of residence of voters; and the State of Georgia shall only be entitled and admitted to representation upon this further fundamental condition: that the first and third subdivisions of section seventeen of the fifth article of the constitution of said State, except the proviso to the first subdivision, shall be null and void, and that the general assembly of said State by solemn public act shall declare the assent of the State to the foregoing fundamental condition.

SEC. 2. And be it further enacted, That if

the day fixed for the first meeting of the legislature of either of said States by the constitution or ordinance thereof shall have passed or have so nearly arrived before the passage of this act that there shall not be time for the legislature to assemble at the period fixed, such legislature shall convene at the end of twenty days from the time this act takes effect, unless the governor elect shall sooner convene the same.

SEC. 3. And be it further enacted, That the first section of this act shall take effect as to each State, except Georgia, when such State shall, by its legislature, duly ratify article fourteen of the amendments to the Constitution of the United States, proposed by the Thirty-ninth Congress, and as to the State of Georgia when it shall in addition give the assent of said State to the fundamental condition hereinbefore imposed upon the same; and thereupon the officers of each State duly elected and qualified under the constitution thereof shall be inaugurated without delay; but no person prohibited from holding office under the United States, or under any State, by section three of the proposed amendment to the Constitution of the United States, known as article fourteen, shall be deemed eligible to any office in either of said States, unless relieved from disability as provided in said amendment; and it is hereby made the duty of the President within ten days after receiving official information of the ratification of said amendment by the legis-

lature of either of said States to issue a proclamation announcing that fact.

4. EXTRACTS FROM JOURNALS OF PROCEEDINGS OF 1868 CONSTITUTION

PROCEEDINGS OF THE CONVENTION

FIRST DAY

MONDAY, January 20, 1868.

The People of the State of Florida, on this the twentieth day of January, one thousand eight hundred and sixty-eight, through their delegates chosen in pursuance of the Act of Congress entitled "an act to provide for the more efficient government of the rebel States," and the act supplementary thereto, assembled in Convention, in the Representative Hall in the Capitol, at Tallahassee, and thereupon, on motion, C. H. Pearce of the sixth district was appointed temporary Chairman, and H. Ford Secretary.

* * *

Page 8

Mr. Pearce, of the 6th District, offered the following resolution:

Resolved, That this Convention telegraph to Gen. Meade, informing him of the permanent organization of this body, and that we are in

a condition to receive any communication that he may be pleased to make;

Which was adopted.

* * *

Pages 9-10

HALF-PAST TWO O'CLOCK, P. M.

The Convention resumed its session.

The following telegram was received from Gen. Meade:

"I regret that my public duties prevent my complying with your invitation to visit your Convention. I have no communication to make beyond calling your attention to the remarks made to the Georgia Convention, and urging prompt action upon your part in the important duty assigned to you, and the earnest hope that you will speedily form a Constitution and frame a civil government acceptable to the people of Florida and the Congress of the United States. Signed, "Major General GEORGE MEADE."

Which was read.

* * *

Page 47

Mr. Purman from the Committee on Eligibility made the following report:

The undersigned, members of the Committee

on Eligibility, beg leave to report that after due inquiring into, and examination of the claims of Daniel Richards returned as delegate to this Convention from the 4th Election District, they find upon conclusive evidence that he is not a registered voter in, nor an inhabitant of the District from which he is returned, and that in consequence his claims as a delegate are not in accordance with the requirements of the Reconstruction Acts, with the provisions of the Constitution of the State of Florida, nor in harmony with the general principles of our representative government, as fully set forth in the report of your Committee on the claims of W. H. Saunders et. al.

Your Committee are after mature deliberation, clearly of the opinion that he is not eligible to a seat on this floor, and recommend the passage of the following resolution.

Resolved, By the Constitutional Convention of the State of Florida, that Daniel Richards returned as a delegate from the 4th election district, is hereby declared ineligible to a seat in this body.

W. J. PURMAN, Chm'n.
LYMAN W. ROWLEY,
EMANUEL FORTUNE.

Upon the adoption of which the yeas and nays being called for, were:

Yeas—Mr. President, Messrs. Alden, Armistead, Bryan, Campbell, Cessna, Chandler,

Childs, Conover, Dennett, Erwin, Fortune, Howse, McRae, Mizell, Mobley, Osborn, Pearce, 16th district, Powell, Purman, Rogers, Rombauer, Rowley, Shuler and Urquhart—25.

* * *

Page 78

Mr. Osborn offered the following resolution, which was admitted under suspension of the rules and adopted:

Resolved, That the Sergeant-at-Arms be directed to send by mail to Col. F. F. Flint, Col. J. T. Sprague, Maj. Gen. G. G. Meade, Gen. U. S. Grant, and E. M. Stanton, Secretary of War, five copies each day of the proceedings of this Convention; to the Secretary of State, W. H. Seward, to B. F. Wade, President of the U. S. Senate, and to the Speaker of the House of Representatives, ten copies each; to Andrew Johnson, President of the United States, five copies, and to the President of each Constitutional Convention in session ten copies, and that one copy be sent to the Governor of each State in the Union.

Page 119

Mr. Cessna offered the following resolution:

Resolved, That the Secretary of this Convention be and he is hereby instructed to send by mail to each member of this Convention, when the same shall have been printed, ten copies of

the Journal and ten copies of the Constitution, and that the Financial Agent furnish the necessary funds to cover the expenditure incurred by carrying into effect this resolution;

Which was adopted.

* * *

Pages 122-123

Mr. Osborn offered the following ordinance:

AN ORDINANCE

To provide for submitting the Constitution to the People for Ratification.

Section 1. **Be it ordained by the People of Florida in Convention assembled,** That the Constitution, framed by this Convention, and signed on the 25th day of February, A. D. 1868, be and the same is hereby submitted for ratification to the persons registered and to be registered under the provisions of the several acts of Congress, entitled "An act to provide for the more efficient government of the rebel States," passed March 2d, 1867, "an act supplementary to an act entitled an act to provide for the more efficient government of the rebel States," passed March 2d, 1867, and to facilitate restoration "an act supplementary to an act entitled an act to provide for the more efficient government of the rebel States," passed on the 2d day of March, 1867, and an act supplementary thereto, passed on the 23rd day of March, 1867,

at an election to be conducted according to the provisions of the said acts of Congress.

* * *

5. FLORIDA CONSTITUTION OF 1867 TRANSMITTED TO THE PRESIDENT AND BY HIM TO CONGRESS

(House Miscellaneous Document No. 297, 2nd Session, 40th Congress)

FLORIDA

MESSAGE

from the

PRESIDENT OF THE UNITED STATES,

Transmitting

Papers relating to proceedings in the State of Florida.

May 29, 1868.—Referred to the Committee on Reconstruction and ordered to be printed.

To the Senate and House of Representatives:

I transmit to Congress the accompanying documents, which are the only papers that have been submitted to me, relating to the proceedings to which they refer in the State of Florida.

ANDREW JOHNSON.

Washington, D. C., **May 27,** 1868.

Washington, D. C., **May 27**, 1868.

Sir: In compliance with a provision of an act of the United States Congress, entitled "An act supplementary to an act to provide a more efficient government in the rebel States," I have the honor, as president of the constitutional convention of the State of Florida, herewith to transmit to you a copy of the constitution framed and adopted by the convention, and ratified by the people of Florida as a duly authorized election held on the 4th, 5th, and 6th instant.

I am, sir, with great respect, your obedient servant,

HORATIO JENKINS, Jr.,

President of the Constitutional Convention, State of Florida.

His Excellency ANDREW JOHNSON,
President of the United States.

CONSTITUTION OF THE STATE OF FLORIDA.

Preamble.

We, the people of the State of Florida, grateful to Almighty God for our freedom, in order to secure its blessings and form a more perfect government, insuring domestic tranquillity, maintaining public order, perpetuating liberty

and guaranteeing equal civil and political rights to all, do establish this constitution.

* * *

ARTICLE I.

Boundaries.

The boundaries of the State of Florida shall be as follows. Commencing at the mouth of the river Perdido; from thence up the middle of said river to where it intersects the south boundary line of the State of Alabama and the thirty-first degree of north latitude; thence due east to the Chattahoochee river; thence down the middle of said river to its confluence with the Flint river; from thence straight to the head of the St. Mary's river; thence down the middle of said river to the Atlantic ocean; thence southeastwardly along the coast to the edge of the Gulf Stream; thence southwestwardly along the edge of the Gulf Stream and Florida reefs to and including the Tortugas islands; thence northeastwardly to a point three leagues from the main land; thence northwestwardly three leagues from the land to a point west of the mouth of the Perdido river; thence to the place of beginning.

* * *

Done in open convention. In witness whereof, we, the undersigned delegates, representing the people of Florida, in convention assembled, do hereunto affix our names this the twenty-

fifth day of February, anno Domini one thousand eight hundred and sixty-eight, and of the independence of the United States the ninety-second, and the secretary doth countersign the same.

HORATIO JENKINS, Jr., President.
S. CONANT, Secretary.

Countersigned by—

George J. Alden.	Roland T. Rombauer.
Lyman W. Rowley.	Major Johnson.
J. W. Butler.	William R. Cone.
John L. Campbell.	Thomas Urquhart.
W. J. Purman.	Andrew Shuler.
L. C. Armistead.	J. N. Krimminger.
E. Fortune.	William K. Cessna.
H. Bryan.	Josiah T. Walls.
M. L. Stearns.	S. B. Conover.
J. E. A. Davidson.	Auburn Erwin.
Frederick Hill.	B. McRae.
J. W. Childs.	A. B. Hart.
T. W. Osborn.	N. C. Dennett.
Joseph E. Oats.	William Bradwell.
Richard Wells.	J. C. Gibbs.
Green Davidson.	J. H. Goss.
O. B. Armstrong.	A. Chandler.
John Wyatt.	W. Rogers.
John W. Powell.	Samuel J. Pearce.
Robert Meacham.	C. R. Mobley.
Anthony Mills.	David Mizelle.
A. G. Bass.	E. L. Ware.

I, Sherman Conant, secretary of the said convention, do hereby certify that the foregoing

is a true copy of the constitution adopted on the 25th day of February, A. D. 1868.

SHERMAN CONANT, Secretary.

6. FLORIDA CONSTITUTION OF 1868 TRANSMITTED TO THE RECONSTRUCTION COMMITTEE OF CONGRESS

(House Miscellaneous Document No. 114, 2nd Session, 40th Congress)

PROCEEDINGS

of

THE FLORIDA CONVENTION

March 31, 1868.—Ordered to be printed.

Sir: In accordance with the following resolution adopted by the Constitutional Convention of the State of Florida, to wit:

Resolved, That the financial agent of this convention, William H. Gleason, and George J. Alden, a delegate to this convention, be directed to lay the journal of this convention and the constitution before the Reconstruction Committee of the United States Congress, and before Major General Meade, at as early a day as possible—

we present to your honorable committee the constitution as framed and adopted by the convention.

CONSTITUTION OF THE STATE OF FLORIDA

Preamble.

We, the people of the State of Florida, grateful to Almighty God for our freedom, in order to secure its blessings and form a more perfect government, insuring domestic tranquility, maintaining public order, perpetuating liberty, and guaranteeing equal civil and political rights to all, do establish this constitution.

* * *

ARTICLE I.

Boundaries.

The boundaries of the State of Florida shall be as follows: Commencing at the mouth of the River Perdido; from thence up the middle of said river to where it intersects the south boundary line of the State of Alabama on the thirty-first degree of north latitude; thence due east to the Chattahoochee river; thence down the middle of said river to its confluence with the Flint river; from thence straight to the head of the St. Mary's river; thence down the middle of said river to the Atlantic ocean; thence southeastwardly along the coast to the edge of the Gulf stream; thence southwestwardly along the edge of the Gulf stream and Florida reefs to and including the Tortugas islands; thence northeastwardly to a point three leagues from the main land; thence northwestwardly three

leagues from the land to a point west of the mouth of the Perdido river; thence to the place of beginning.

Done in open convention. In witness whereof we, the undersigned, delegates representing the people of Florida in convention assembled, do hereunto affix our names this the twenty-fifth day of February, Anno Domini one thousand eight hundred and sixty-eight, and of the independence of the United States the ninety-second, and the secretary doth countersign the same.

HORATIO JENKINS, Jr., F.O.
President.

Countersigned by S. CONANT, **Secretary.**

George J. Alden, F.O.
Lyman W. Rowley, F.O.
—J. W. Butler,
—John L. Campbell,
W. J. Purman, F.O.
L. C. Armistead,
E. Fortune, N
H. Bryan, N
M. L. Stearns, Northerner
J. E. A. Davidson,
Frederick Hill, N
J. W. Childs, F.O.
T. W. Osborn, F.O.
Joseph E. Oates, N
Richard Wells, N
Green Davidson, N
O. B. Armstrong, N
John Wyatt, N
John W. Powell, F.O.
Robert Meacham, N
Roland T. Rombauer, F.O.
Major Johnson, N
William R. Cone, C
Thomas Urquhart, N
Andrew Shuler,?
J. N. Krimminger, C
Wm. K. Cessna, F.O.
Josiah T. Walls, N
S. B. Conover, F.O.
Auburn Erwin, N(?) F.O.
—M. McRae,
—O. B. Hart,
N. C. Dennett, F.O.
William Bradwell, N
J. C. Gibbs, N
J. H. Goss, C
A. Chandler, N
—W. Rogers,
Samuel J. Pearce, F.O.
—C. R. Mobley,

Anthony Mills, N —David Mizell,
—A. G. Bass, —E. L. Ware.

NOTE: The copy of the state constitution of 1868 transmitted to the Reconstruction Committee of Congress, referred to in the above letter from Wm. H. Gleason and George J. Alder, is the same as the one transmitted to the President and by him transmitted to the Senate and House of Representatives on May 27, 1868.

7. DRAFTS OF PROPOSED STATE CONSTITUTIONS

In addition to the copies of the state constitution, adopted by the constitutional convention, approved by the people of Florida, and submitted to the President and to Congress as aforesaid (Miscellaneous Documents 114 and 297, 2nd Session, 40th Congress) there were two other copies of proposed state constitutions also submitted, as is evidenced by Miscellaneous Document 109 of the said 2nd Session of the 40th Congress, to-wit:

CONSTITUTION OF FLORIDA.

March 23, 1868.—Referred to the Committee on Reconstruction and ordered to be printed.

FLORIDA CONSTITUTIONAL CONVENTION —ITS HISTORY

Enclosed is the order of Major General John Pope, commanding third military district, calling the constitutional convention of Florida, and his return of the delegates elected.

ARTICLE XII.

Boundaries.

SECTION I. The boundaries of the State of Florida shall be as follows. Commencing at the mouth of the river Perdido: from thence up the middle of said river to where it intersects the south boundary line of the State of Alabama and the thirty-first degree of north latitude; then due east to the Chattahoochee river; then down the middle of said river to its confluence with the Flint river; from thence direct to the head of the Saint Mary's river; thence down the middle of said river to the Atlantic ocean; thence southwardly to the Gulf of Florida and Gulf of Mexico; thence northwardly and westwardly, including all islands within five leagues of this, to the beginning.

* * *

Your memorialists pray that Congress may, in its wisdom and in view of all the facts set forth above, find that the constitution formed by the twenty-two delegates who remained and completed their work before the convention was broken up is the only one that should be submitted to the voters of that State for ratification.

D. RICHARDS
W. U. SAUNDERS.

This is the constitution formed before the convention was broken up and a new convention organized:

CONSTITUTION OF FLORIDA, 1868.

We, the people of the State of Florida, by our delegates in convention assembled, in order to secure to ourselves and our posterity the enjoyment of all the rights of life, liberty, and property, and the pursuit of happiness, do mutually agree, each with the other, to form the following constitution and form of government, in and for the said State:

Done in open convention. In witness, the undersigned, the President of said convention and delegates present, representing the people of Florida, do hereby sign our names, this the eighth day of February, anno Domini eighteen hundred and sixty-eight, and of the independence of the United States the ninety-third year; and the secretary of the convention doth countersign the same.

D. RICHARDS, President.

A. G. Bass,
William Bradwell,
Andrew Shuler,
Green Davidson,
Fred Hill,
John N. Krimminger,
Joseph E. Oates,
Charles H. Pearce,
John Wyatt,
Josiah Twalls,
Wm. U. Saunders,
Liberty Billings,
Wm. R. Cone,
Jesse H. Goss,
Jonathan C. Gibbs,
Major Johnson,
R. Meacham,
Anthony Mills,
Alexander Chandler,
Eldridge L. Ware,
O. B. Armstrong.

* * *

LAST CONSTITUTION FRAMED AFTER A NEW CONVENTION WAS ORGANIZED.

Constitution of the State of Florida, framed by a convention of the people assembled at Tallahassee, on the 20th day of January, 1868.

Preamble.

We, the people of the State of Florida, grateful to Almighty God for our freedom, in order to secure its blessings and form a more perfect government, insuring domestic tranquility, maintaining public order, perpetuating liberty, and guaranteeing equal civil and political rights to all, do establish this constitution.

ARTICLE II

Boundaries

The boundaries of the State of Florida shall be as follows: Commencing at the mouth of the River Perdido; from thence up the middle of said river to where it intersects the south boundary line of the State of Alabama on the thirty-first degree of north latitude; thence due east to the Chattahoochee river; thence down the middle of said river to its confluence with the Flint river; from thence straight to the head of the St. Mary's river; thence down the middle of said river to the Atlantic ocean; thence southeastwardly along the coast to the edge of the Gulf stream; thence southwestwardly along the edge of the Gulf stream and Florida reefs to and including the Tortugas islands; thence northwestwardly to a point five leagues from

the main land; thence northwestwardly five leagues from the shore, including all islands, to a point five leagues due south from the middle of the mouth of Perdido river; thence to the place of beginning.

NOTE: This constitution was never adopted by the convention nor was it ever adopted by the people of the state; it was merely proposed.

8 EXTRACTS FROM HOUSE REPORT NO. 215, OF THE FIRST SESSION OF THE 83rd CONGRESS, ON H. R. 4198, THE SAME BEING THE SUBMERGED LANDS ACT

House Report No. 215
(To accompany H. R. 4198, 83rd Congress, 1st Session)

(1385)

The Committee on the Judiciary, to whom was referred the bill (H. R. 4198) to confirm and establish the titles of the States to lands beneath navigable waters within State boundaries and to the natural resources within such lands and waters, and to provide for the use and control of said lands and resources and the resources of the outer Continental Shelf, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

* * *

(1387)

H. R. 4198 consists of three titles. Title I contains the definitions of various terms used in the bill. Title II deals with the rights and claims by the States to the lands and resources beneath navigable **waters within their historic boundaries and provides** for their development by the States. Title III (See Analysis of Title III, post) deals with the seabed and resources therein of the outer Continental Shelf beyond State boundaries and claim jurisdiction and control for the United States: It authorizes leasing by the Secretary of the Interior in accordance with certain specified terms and conditions.

* * *

(1388)

The term "boundaries" **includes the historic seaward boundaries of the States** in the Atlantic Ocean, the Pacific Ocean, the Gulf of Mexico, or any of the **Great Lakes,** as they were upon entrance of the State into the Union or as has been or shall be approved by Congress or as extended or confirmed pursuant to section 4 of this bill.

* * *

(1390)

Title II authorizes and confirms the boundaries of coastal States to be 3 geographical miles distant from its coastline or the international boundary in the Great Lakes or any body of water traversed by such boundary. While it approves claims of States to so extend their

boundaries to that line, it provides further that section 4 of the act is not to prejudice the existence of any State's historic seaward boundary into the Atlantic or Pacific Oceans, or the Gulf of Mexico or any of the Great Lakes beyond these three miles if it was **so provided by any treaty of the United States, or any act of Congress, or the constitution or laws of a State prior to or when it entered the Union or has been or shall be approved by Congress.** (Emphasis added).

9 EXTRACTS FROM SENATE REPORT NO. 133, OF THE FIRST SESSION OF THE 83rd CONGRESS, ON S. J. RES. 13 (SUBMERGED LANDS):

(1474)

The Senate Committee on Interior and Insular Affairs, to whom was referred the resolution, Senate Joint Resolution 13, to confirm and establish the titles of the States to lands beneath navigable waters within State boundaries and to the natural resources within such lands and waters, and to provide for the use and control of said lands and resources, having considered the same, report favorably thereon. . . .

* * *

(1483)

Section 3(a) (1) provides that the rights of ownership of lands and natural resources beneath navigable waters within **the historic**

boundaries of the respective States are vested in and assigned to the States or persons holding thereunder on June 5, 1950 (the date of the Supreme Court decision in the Louisiana and Texas cases) as explained in part III, "purpose of bill." Under the terms of the measure of the lands confirmed in the States by Senate Joint Resolution 13 are (i) lands within State's boundaries which are above high-water mark and are covered by navigable, nontidal waters, (ii) lands between the high-water mark and a line 3 miles seaward from the coastline, except that in States whose boundary extended beyond that line when the State entered the Union, or whose boundary has been or may hereafter be so extended with the approval of Congress, the resolution covers lands between the high-water mark and that boundary and (iii) all filled in, made, or reclaimed lands formerly beneath navigable waters.

* * *

(1484-5)

The seaward boundary of each original coastal State is confirmed and approved as a line 3 geographical miles distant from its coast line. "Coastline" is defined as the line or ordinary low water or the line marking the seaward limit of inland waters. This provision stems from the fact that the Supreme Court decision in United States v. California has been thought by some persons to cast doubt on whether the boundary of various eastern seaboard States extends 3 miles seaward from their coastlines.

Congressional authority is given for any State admitted subsequent to the formation of the Union to extend its seaward boundary to a line 3 geographical miles distant from its coastline, or to the international boundary of the United States. Any such extension of a State's boundary is expressly without prejudice **to any claim a State may have that its boundary extends beyond that line.** It is also provided that this section is without prejudice to the existence of a State's boundary beyond the 3 mile limit, if it was so provided prior to or at the time such State entered the Union, or if it has been heretofore or is hereafter approved by Congress. (Emphasis added).

10 EXTRACTS FROM STATEMENT OF SENATOR SPESSARD L. HOLLAND, MADE FEBRUARY 16 AND 17, 1953, BEFORE THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS REGARDING SUBMERGED LANDS LEGISLATION

(pages 34, 38, 50 and 72, report of hearing).

(34)

Senator Holland. This measure does not deal with any of the problems of that vast portion of the Continental Shelf — about nine-tenths of the whole shelf — which lies beyond the States' historic or constitutional boundaries.

Mr. Chairman, if I may digress from my printed statement, I call attention to the fact that the map prepared by the Library of Con-

gress for the presiding officer covers the entire Continental Shelf adjoining the maritime States, and I want to make it very clear that my bill does not apply to that entire area shown in blue upon the map, but it applies instead to only 3 miles in area lying off all States but two, and in the case of Texas applies to 3 leagues, or nearly 10½ miles, **and in the case of Florida has two different applications, 3 miles all down our Atlantic coastline and around the Straits of Florida and back to the mainland, and 3 leagues or nearly 10½ miles for the rest of Florida.**

By way of explanation at this time, the reason there is this difference in the case of the coastline of Texas and a portion of the coastline of Florida is that the constitutions of those two States include the provisions that **the limits of those States appear 3 leagues out,** as I have stated in my statement; that is, over the entire coastline of Texas **and over a portion, something more than a third of the coastline of Florida.**

Senator Millikin. I would like to ask the witness—it is not necessary to your case to go into all of the Continental Shelf problems, and I assume that you are not trying, by what you say, either to exclude or include possible future debate on the Continental Shelf? Is that correct?

Senator Holland. That is correct, and I think that the two cases are so different that they merit and must have different considerations.

I fully realize that questions concerning this outer belt must be settled by Congress, but I am opposed to the inclusion of that matter in Senate Joint Resolution 13. The consideration of the outer belt raises entirely different and more difficult questions than those which will be solved by passage of the joint resolution which is before you today.

The questions presented by Senate Joint Resolution 13 have been fully considered by Congress several times, and I believe that this legislation, which relates solely to property within the States' boundaries, can be speedily passed if left unencumbered by other problems. It will be noted that this bill relates to offshore lands beyond the 3-mile limit in only two cases, the west coast of Florida and the coast of Texas, both of which States have, under their constitutions, boundaries extending 3 leagues into the Gulf of Mexico. Otherwise, as to offshore lands, the bill is confined to those lands which extend out to the 3-mile limit. It gives to those States whose boundaries do not formally extend this distance the opportunity to so extend them.

* * *

(38)

Mr. Chairman, when I prepared this statement I did not know that the presiding officer was going to insert that specific list, and so I withdrew my request for inserting the list

again at this time, which would have been exhibit 6.

As mentioned before, there are 40 cosponsors of this legislation, and we find our support coming from every section of the country and including many nationwide organizations whose dignity and patriotism cannot be questioned. To conserve the time of this committee, I would like to insert as part of my remarks a partial list of these supporting organizations.

* * *

(50)

Senator Daniel. Your bill, as a matter of fact, uses the boundaries "at the time said State entered the Union"; is that not correct?

Senator Holland. Entered the Union, or there are some alternatives in there. In the event a constitution was adopted and stated boundaries in a constitution were approved by the Congress, that would prevail. In the event there is not any constitutional boundary, it is specifically stated and the bill makes it clear that 3 miles is what we are talking about.

The bill also makes it clear that it is 3 geographic miles that we are talking about. Some of the States speak of 3 statute miles or 3 English miles, which would be 3 land miles, and we think that the application of the unit of measurement under this bill should uniformly apply to all States, so we have used the term

"3 geographic miles," and I would like the record to show that that is 3.45 land miles, **which would apply in every place to all States except as to the 2 States,** 1 of which, Texas, has a 3-league limitation in its own constitution, extending all across that State's front on the Gulf; **and the State of Florida, which has a 3-league limitation extending over a portion, something more than a third of its frontage, being frontage on the Gulf of Mexico.**

Senator Anderson. I thank the Senator for it. I am not trying to quibble with him over what his bill involves; and I do know that occasionally, when courts are called upon to construe laws, they look to the legislative intent; and I thought that right at the beginning of this hearing it was important that the author of the bill set forth what the legislative intent is—that it does not include this fringe of islands 50 or 60 miles from shore but does deal with the 3 miles directly coming out from the shoreline.

* * *

(72)

In this instance I simply call attention to the fact that we are dealing, under my bill at least, with a narrow, strangling cord of land and water, generally 3 miles wide, never more than 10½ miles wide, 5,000 miles long, extending from the upper border of Maine clear down the Atlantic coast, back through the gulf, and then up the Pacific, which must become either a part of the States upon which it bounds and the

coastal communities which it must serve. (Emphasis added)

EXTRACTS FROM STATEMENT OF HON. FRANK G. MILLARD, ATTORNEY GENERAL OF MICHIGAN MADE FEBRUARY 17, 1953, BEFORE THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS REGARDING SUBMERGED LANDS LEGISLATION (Page 206, report of hearing).

The Holland bill simply recognizes the long-established good-faith claims of all of the 48 States and establishes, confirms, and restores to every State in the Union the ownership and control of all of this type of property located within their respective historic boundaries. It will not be a "gift," because the Federal Government has never possessed or exercised any ownership of the property. It asserted no claim until recent years. The Holland bill will simply permit the States to keep that which they have always possessed in utmost good faith for over 100 years.

EXTRACTS FROM STATEMENT OF HON. PRICE DANIEL, SENATOR FROM TEXAS, MADE FEBRUARY 23, 1953, BEFORE THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS REGARDING SUBMERGED LAND LEGISLATION (page 411, report of hearing).

Senator Daniel. In order that it might immediately follow that, I would like to intro-

duce into the record this map from the State Department of the International Boundary Commission, which I showed to the committee at one of the previous meetings, but did not put in the record, which shows that the International Boundary Commission between the United States and Mexico actually ran our international boundary between these two nations 3 leagues out into the Gulf of Mexico, in accordance with the Treaty of Guadalupe Hidalgo.

I may say the Republic of Mexico is claiming the same distance out into the Gulf as the State of Texas and **the State of Florida, with approval by the United States Congress.**

The matter of 9 miles or 10½ miles all depends upon whether you are talking about geographic miles or statutory miles, I believe it is. Anyway, we are claiming the same distance; actually 3 leagues is equal to 10½ statutory miles.

I just want that to be in the record so that our friends from Mexico will not be looked upon as thieves and robbers when they are trying to claim exactly what the International Boundary Commission, according to this State Department map, said they had the right to claim as their boundary out in the Gulf of Mexico.

Senator Barrett. It may be received.

(Emphasis added)

11 EXTRACT FROM PAGE 931 OF REPORT OF HEARING BEFORE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS OF THE SENATE; MARCH 2, 1953

Senator Anderson. I grant you that it eliminates future controversies temporarily. Any State can go back afterward and say a mistake was made in drawing its historic boundaries, and we would have the same controversy over again.

When the Secretary of the Interior was testifying before us he was asked: "I wonder if you can supply for the committee a definition of the historic boundaries of the respective States. I am not asking you to do it now. I mean a little later on when you have had an opportunity to go into the matter. The historic boundaries get to be quite a problem after a while. I am wondering if you could supply the committee with a statement of your idea of the historic boundaries of the respective States."

The Secretary of the Interior said: "I think the Attorney General's idea would probably be more accurate than the Secretary of the Interior, but I will be glad to supply it."

Since he has qualified you as the witness he would like to have testify on this, can you give us any idea whether you would follow for example, the Boggs formula?

Attorney General Brownell. Our thought

generally, Senator, without going into great detail, is that this line would be 3 miles out, except in the case of Texas and the west coast of Florida.

12 EXTRACTS FROM STATEMENT OF HON. DOUGLAS McKAY, SECRETARY OF THE INTERIOR, BEFORE SUBCOMMITTEE NO. 1 OF THE COMMITTEE ON THE JUDICIARY, OF FEBRUARY 26, 1953. (Serial No. 1 printed for use of the Committee on the Judiciary H. R. 2948 and similar Bills; pages 179, 180, 181, 188 and 196)

STATEMENT OF THE HON. DOUGLAS McKAY, SECRETARY OF THE INTERIOR

Secretary McKay. Mr. Chairman and gentlemen of the committee, Congress has before it a fundamental question of national policy involving the ownership of, and the production of minerals from the offshore submerged lands of the United States.

This has been a controversial problem for a number of years.

The Supreme Court of the United States, in litigation involving the States of California, Texas, and Louisiana, has held that the Federal Government has a paramount interest in all of the Continental Shelf. It now becomes desirable for the Congress to determine as a matter of policy rather than as a matter of law whether the exercise of continued Federal control in this area is in the best national interest.

I am not here to interpret the decision of the Supreme Court. The Court did, however, recognize in its opinion the right of Congress to establish a national policy.

We know the vital role played by oil and gas in our national economy. We are aware of the essential place petroleum has in the implementation of the Military Establishment.

The amounts of oil which may be needed by our country at any given time in our history will of necessity depend to a large part upon the problems involving our national defense. It would seem to me, however, fundamental that the petroleum to be utilized for military or civilian purposes should be thought of in terms of productible oil at a given time, rather than petroleum stores established as a reserve by limited drilling or geophysical exploration.

In other words, with respect to the oil down under the soil that we have just explored and know is there, you cannot turn on a spigot and turn it off. You have to have productive wells to be of value at the moment.

In view of the broad national policy which this Congress must establish, and in the light of the concept of petroleum utilization which I have just expressed, I am pleased to give to the committee my own opinion of the problems before it.

I should like to be very clear in saying that

I am not the advocate or the opponent of any specific bill which the committee may have under consideration.

I do believe that the national interest would be best served by restoring to the various States the coastal offshore lands to the limits of the line marked by the historical boundaries of each of the respective States.

I believe that the national defense will be best served by getting more active production from these submerged lands; and that it is equally important, therefore, that the Congress should in the same legislation establish a procedure by which development may go forward on all of the lands on the Continental Shelf outside of a line marking the historical boundaries of the several States, with all of the revenues to go to the Nation as a whole.

I believe that the interest of the Federal Government should be asserted and advanced by the Congress in all of the Continental Shelf which lies outside of the line marking the historical boundaries of the States.

Due consideration should be given to problems of international sovereignty involving the utilization of the territorial waters and the high seas which lie above the Continental Shelf.

I should like now to address myself to the administration for purposes of production and development of that portion of the Continental

Shelf which lies outside the line marking the historical boundaries of the various States.

I believe that such administrative responsibility would rest most appropriately in the Department of the Interior. I am motivated in this conclusion by the traditional experiences of the Department, with particular respect to the Geological Survey, the Bureau of Land Management, and like agencies which have long been concerned with the conservation and development of the public resources of our Nation.

The legislation should, in my judgment, empower the Department of the Interior, or such other department or agency as the President may designate, to take appropriate action to prevent waste, to provide for exploration and development, to supervise production, and to recover fair and just revenues for the benefit of the Nation as a whole.

Because of always changing conditions, some of which are unforeseeable, I would hope that the legislation would grant such discretion to the Department of the Interior in management policies as is consistent with the thinking of the Congress.

Various leases to companies and to individuals are currently existent on lands of the Continental Shelf both within and without the line marking the historical boundaries of the several States. In keeping with the American tra-

dition of recognizing the ownership of properties acquired in good faith, I do believe that the legislation should empower the Federal Government to grant new leases in exchange for State-issued leases on properties outside the line marking the historical boundaries of the States.

The legislation should as clearly as possible define with exactness the line marking the hostorical boundaries of the various States, but some mechanism should be provided in order to settle disputes which may arise with respect to the location of individually leased properties.

It is my hope that this important problem of national policy may be resolved as expeditiously as possible.

Mr. Graham. Have you completed your statement?

Secretary McKay. Yes, sir.

Mr. Graham. Mr. Secretary, before we proceed further, for your information, the group about me are the members of Subcommittee No. 1 assigned to hear this matter. We have invited other members of the Committee of the Judiciary to be present. In addition, there are several other Members of Congress who are not members of the committee. Guided by the time you have, we would like to permit those of the committee to interrogate you, and then the other members of the committee to interrogate you;

and, then, if you have time, the other Members of Congress may desire to interrogate you. Then you will know by whom you are being questioned.

Secretary McKay. Yes, sir. My time is yours. I will be glad to stay whatever time you wish.

Mr. Graham. Mr. Hillings?

Mr. Hillings. I have no questions.

Mr. Graham. Miss Thompson?

Miss Thompson. I have none.

Mr. Graham. Mr. Celler, have you any questions?

Mr. Celler. Yes; I have a few questions.

Mr. Secretary, I believe your statement, if I may be privileged to sum it up, says that the right of disposal lies in the Federal Government concerning the land submerged under the sea seaward from the limitation of the State boundaries; is that correct?

Secretary McKay. Yes, sir, **of the historic boundaries. In most cases of these States, it is 3 miles to sea, except in Texas and Florida, where it is, of course, 3 leagues.**

* * *

(188-9)

Mr. Wilson. I was speaking particularly with regard to outside the State boundaries of 10½ miles of Texas and Florida, and 3 miles for the rest of the States. Historical boundaries are what we are talking about. I say outside the historical boundaries.

Mr. Celler. Would it not be more consistent with what you just said that instead of using the term "historical boundaries," you would use the boundaries as claimed by the States?

Secretary McKay. No, I cannot agree with that. The historical boundaries have been established for 100 years or more, from the time the State came into the Nation.

Mr. Celler. Then you are limiting the claim of the States to historic boundaries that have existed over the years?

Secretary McKay. I have not made any statement on the claims of the States.

Mr. Celler. What do you mean by historic boundaries? That is what I am trying to get at.

Secretary McKay. The historic boundaries have been recognized by the States, in the case of my State for 94 years, when we came into the Union with the description that we came in with. With Texas, they came in by a treaty as a Republic. Those are historic boundaries.

I do not think there is any question about that.

(Emphasis added)

13 EXTRACTS FROM THE CONGRESSIONAL GLOBE

March 2, 1867, page 1969-1972; Veto Message

President Andrew Johnson, in his veto message to H. R. No. 1143 (misnumbered 1134), which was passed over his veto and became the act of March 2, 1867 (14 Statutes at Large 428), said, concerning the fifth section thereof, that

> "The fifth section declares that the preceding sections shall cease to operate in any state where certain events shall have happened. These events are . . .; **fifth,** the submission of the state constitution to Congress for examination and approval of it by that body. . . . Another Congress must first approve the constitutions made in conformity with the will of this Congress, and must declare these states entitled to representation in both houses. . . ."

March 23, 1868; page 2073, Congressional Globe.

"FLORIDA"

"Mr. Farnsworth, by unanimous consent, presented the memorial of the meeting of the Florida constitutional convention, transmitting two constitutions, and moved that they be referred to the Committee on Reconstruction, and ordered to be printed.

"The motion was agreed to."

March 31, 1868, page 2232, Congressional Globe.

"CONSTITUTION OF FLORIDA"

"Mr. Paine. I move that the constitution of Florida with the accompanying papers, referred to the Committee on Reconstruction, be printed for the use of the House.

"The motion was agreed to."

May 13, 1868, page 2434, Congressional Globe.

"CONSTITUTIONS OF SOUTH CAROLINA, ETC."

"The PRESIDENT pro tempore laid before the Senate the constitution of the State of South Carolina, and also the constitution of the State of Florida, adopted by the constitutional conventions recently held in those States under the reconstruction laws; which were referred to the Committee on the Judiciary."

May 13, 1868, page 2436, Congressional Globe.

BILLS INTRODUCED

"Mr. Wilson asked, and by unanimous consent obtained leave to introduce a joint resolution (S. R. No. 135) to restore Alabama, North Carolina, South Carolina, Georgia, Louisiana, and Florida to representation in Congress; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed."

May 14, 1868, pages 2461-2463, Congressional Globe.

Mr. Pruyn . . . But, sir, the views were boldly carried out and we have the result now before us as far as it has been reached in this direction in the shape of these constitutions **now presented for our approval.**

* * *

(2462)

Mr. BINGHAM. Well, no matter. The constitutions of these several States, in accordance with the spirit and letter of the Constitution of the United States as it stands amended by the act of the American people, secure equal political and civil rights and equal privileges to all citizens of the United States, native born and naturalized. Time was in this Republic when that was Democracy. If the utterance of Jefferson ever meant anything—and I think it signified a great deal—it meant precisely that when he declared for equal and exact justice to all men; equality of rights to all. That is all I desire to say on that subject.

* * *

(2463)

Mr. WOODBRIDGE. Mr. Speaker, in the act passed at the last session for the government of the rebel States it was provided that any of those States, under certain conditions, might call a convention, which should have power to frame a constitution and civil government

under the provisions of the act of Congress; that the constitution, when formed, should be submitted to the people of the State for their ratification, and that if the majority of the registered voters declared in favor of the constitution, and that constitution, when submitted to Congress, **should be approved by it,** the State should then be admitted to representation. . . . (Emphasis added)

May 14, 1868, page 2465, Congressional Globe.

Now, sir, what is the particular question we are considering? Five or six States have had submitted to them the question of forming constitutions for their own government. They have voluntarily formed such constitutions, under the direction of the Government of the United States. They have sent those constitutions here, backed, in every instance, even in that of Alabama, by a majority of all the voters within the State. And when I say "all the voters" I mean all the voters, black and white, whether they come from New York or South Carolina or elsewhere. They have sent us their constitutions. Those constitutions have been printed and laid before us. We have looked at them; **we have pronounced them republican in form;** and all we propose to require is that they shall remain so forever. Subject to this requirement, we are willing to admit them into the Union. (Emphasis added)

* * *

May 29, 1868, page 2659, Congressional Globe.

EXECUTIVE COMMUNICATION

"The PRESIDENT pro tempore laid before the Senate a message of the President of the United States, communicating papers which have been submitted to him relating to the proceedings for the formation of a constitution in the State of Florida under the reconstruction acts; which was laid on the table, and ordered to be printed."

June 2, 1868, page 2759, Congressional Globe.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress, have instructed me to report it back with an amendment.

Mr. WILSON. What is the amendment?

Mr. TRUMBULL. It will have to be printed; and I have no time to explain it. The same committee, to whom were referred the constitutions of these States, report them back for the consideration of the Senate.

The same committee, to whom was referred the resolution (S. R. No. 135) to restore Alabama, North Carolina, South Carolina, Georgia, Louisiana, and Florida to representation in Congress, have instructed me to report it back and recommend its indefinite postponement,

the subject being embraced by the bill just reported.

The PRESIDENT **pro tempore.** The joint resolution will be indefinitely postponed if no objection be made, and the bill will go on the Calendar.

* * *

June 5, 1868, page 2858, Congressional Globe.

REPRESENTATION OF SOUTHERN STATES.

Mr. TRUMBULL. I move that the Senate now proceed to the consideration of the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The PRESIDENT **pro tempore.** The bill will be read through.

Mr. TRUMBULL. Perhaps I can save time by briefly stating to the Senate what the changes made in the House bill are. The bill as it came from the House of Representatives provides for the admission of the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress. The committee have amended the bill so far as to strike out Alabama, and, as the bill is printed, to insert Florida, but a majority of

the committee do not agree to the insertion of Florida; and that is a mistake. Florida should not be in the bill as the report of the committee, although, as one member of the committee, I was in favor of inserting Florida. A majority of the committee, however, are opposed to it, and, although printed in that form, Florida is not inserted by the majority of the committee. It arose out of a misunderstanding as to how the majority of the committee stood, the committee not being full at the time the vote was taken and Florida inserted.

* * *

Those are the only four States that remain in the bill according to the report of the Judiciary Committee. I will state, however, in regard to Florida, what the evidence is of the ratification of the constitution in that State. While the bill was pending before the Judiciary Committee I addressed a note of the General of the Army asking for any official information in his possession in regard to the ratification of the constitution in Florida, and received this answer:

HEADQUARTERS ARMY OF THE UNITED STATES,
WASHINGTON, D. C., *June* 3, 1868.

SIR: Since my note of yesterday to you, I have received a telegram from General Meade, of which the accompanying is a copy, reporting the result of the Florida elections, and I send it to you in full answer to your inquiry.

Very respectfully, your obedient servant,
U. S. GRANT, *General.*

HON. LYMAN TRUMBULL, *United States Senator, Chairman Committee on Judiciary.*

[Telegram received in cipher 2:40 p. m.]

WASHINGTON, *June* 2, 1868.

(From Atlanta, Georgia.)

To General U. S. Grant,
Commanding Armies of the United States:

Official returns of the Florida elections, this day received, show for the constitution 14,511 votes; majority for the constitution 5,050 votes. In the office of Governor Harrison Reed received 14,421 votes; George W. Scott received 7,731 votes; and Samuel Walker received 2,257 votes.

GEORGE G. MEADE,
Major General Commanding.

HEADQUARTERS ARMY UNITED STATES.

Official copy:

GEORGE K. LEET,
Assistant Adjutant General.

* * *

REPRESENTATION OF SOUTHERN STATES.

The PRESIDENT **pro tempore.** House bill No. 1058 is before the Senate as in Committee of the Whole.

Mr. TRUMBULL. When interrupted, Mr. President, I had read a letter from General Meade stating the vote in Florida. The papers to which I have referred furnish the evidence of the ratification of the various constitutions.

June 5, 1868, page 2862, Congressional Globe.

I am in favor of the admission of this State. I want the Union restored as fast as possible. Let us get this State and Florida in, and we shall then have enough to stop all quibbling,

to satisfy all honest men and everybody else with regard to the ratification of the constitutional mendment. I suppose our Democratic friends want that question settled one way or the other. We want it settled in the right way.

June 8, 1868, page 2930, Congressional Globe.

The distinction between Alabama and the other States is to my mind very clear. The other States, Georgia, North Carolina, South Carolina, Louisiana, and Florida, have all adopted constitutions in accordance with the reconstruction acts and sent their constitutions here; they have ratified those constitutions by a vote of the people in accordance with the reconstruction acts. The State of Alabama has not done that.

June 8, 1868, page 2931, Congressional Globe.

We have a bill here embracing five States, North Carolina, South Carolina, Louisiana, Georgia, and Florida, each one of which has ratified its constitution in accordance with the law.

June 10, 1868, page 3018, Congressional Globe.

The Chief Clerk. It is proposed to amend the preamble by striking out "Alabama" in the second line and inserting "Florida," and by striking out the words "in form" after the word "republican" in the seventh line.

Mr. TRUMBULL. "Alabama" should not go out now.

Mr. DRAKE. And Florida should be inserted in the preamble. There are two amendments in the preamble. One is to insert the name of Florida there; and as it is now in the body of the bill, it should of course be inserted in the preamble. The other is to strike out the words "in form." Both of these amendments require the action of the Senate.

June 11, 1868, page 3067, Congressional Globe.

MESSAGE FROM THE SENATE

At this point the committee rose informally, and the Speaker having resumed the chair, a message was received from the Senate, by Mr. Gorham, its Secretary, announcing that the Senate had passed bills and a joint resolution of the following titles, in which he was directed to ask the concurrence of the House:

* * *

A joint resolution (S. R. No. 93) granting permission to officers and soldiers to wear the badges of the corps in which they served during the rebellion.

The message further announced that the Senate had passed the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, and Alabama to representation in Congress, with amendments, in which the concurrence of the House was requested.

June 12, 1868, pages 3090-3097, Congressional Globe.

REPRESENTATION OF SOUTHERN STATES.

Mr. BINGHAM. I report back from the Committee on Reconstruction the amendments of the Senate to the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina Louisiana, Georgia, and Alabama to representation in Congress, with the recommendation that the amendments of the Senate be concurred in; and I call the previous question.

The amendments were read, as follows:

Page 1. line two of the preamble, strike out "and."

Page 1. line two, after the word "Alabama," insert "and Florida."

Page 1. line eight, strike out the words "in form."

Strike out all after the enacting clause and insert in lieu thereof the following:

Whereas the people of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida have, in pursuance of the provisions of an act entitled "An act for the more efficient government of the rebel States," passed March 2, 1867, and the acts supplementary thereto, framed constitutions of State government which are republican, and have adopted such constitutions by large majorities of the votes cast at the elections held for the ratification or rejection of the same: Therefore,

Be it enacted, &c., That each of the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida shall be entitled and admitted to representation in Congress as a State of the Union when the Legislature of such State shall have duly ratified the amendment to the Constitution of the United States proposed by the

Thirty-Ninth Congress, and known as article fourteen, upon the following fundamental conditions: that the constitutions of neither of said States shall ever be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote in said State who are entitled to vote by the constitution thereof herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted, under laws equally applicable to all the inhabitants of said States: *Provided*, That any alteration of said constitutions may be made with regard to the time and place of residence of voters; and the State of Georgia shall only be entitled and admitted to representation upon this further fundamental condition: that the first and third subdivisions of section seventeen of the fifth article of the constitution of said State, except the proviso to the first subdivision, shall be null and void, and that the General Assembly of said State, by solemn public act, shall declare the assent of the State to the foregoing fundamental condition.

* * *

(3090)

Mr. FARNSWORTH. I move to strike out all of this bill that relates to the admission of Representatives in Congress from Florida. And in support of my amendment I desire to say that I make it, as I think the House will believe from my past course in regard to reconstruction, because I am thoroughly convinced that Florida ought not to be readmitted to representation in Congress with its present constitution.

In the first place, the constitution of Florida was irregularly formed; I can but briefly go over the history of its formation. It seems that a majority of the delegates elected to the Flor-

ida convention assembled at the time appointed; they were sworn, organized the convention, elected its officers, and proceeded with the business of the convention for a week or so. In the meantime the minority of the convention, refusing to go into the convention, by constant efforts to withdraw members from the convention succeeded in getting enough to withdraw to leave the convention without a quorum.

The convention, however, assembled from day to day and proceeded, as far as it could without a quorum, in the details of a constitution, and finally adjourned for a week, in order that other members of the convention might come in and that they might submit what they had done to General Meade. Before the expiration of the week, and on Saturday night, I think it was, the minority, who had adjourned to some neighboring village, came in, in the night, broke into the hall, and took possession of it and held it. On the day when the convention was to reassemble they found this minority in possession of the hall, with bayonets at the door to keep them out.

This minority convention, finding that they had not a majority to proceed to business, proceeded first to expel four members of the convention, to vote them out and to vote in the minority candidates, who had no certificates of election, and who in some instances confessedly had but a most meager minority of the votes cast. Acting upon the principle that as they

had voted out the men who were elected somebody ought to represent those districts, they voted in the men who were not elected.

Then they proceeded with the work of making a constitution. After they had completed their labors, in order to get the delegates of the convention to sign it they passed an ordinance providing that no member should receive his pay as delegate to that convention unless he signed the constitution. Many of the members of the convention were very poor men, many of them were colored men, depending entirely upon the pay they should receive as delegates in order to defray their expenses. Of course, they walked up and signed the constitution for the purpose of obtaining money to defray their expenses and pay their debts. By this means they succeeded in getting a majority of the delegates elected to the convention to sign the constitution.

Now, what is the constitution of Florida? It erects a little oligarchy down there in Florida; nothing else in the world. It gives to the Governor-elect of that State the power to appoint nearly all the State officers. And, by the way, the man elected Governor of Florida is one of the Postmaster General's mail agents in Florida. And the man elected Lieutenant Governor is, I believe, from the pineries of Wisconsin, where the Barston frauds were got up; and I do not know but what he is another of the post office agents.

The Governor of Florida is authorized by this constitution to appoint all the other State officers, the attorney general, secretary of State, State treasurer, State auditor, superintendent of schools, and all such officers. These State officers are made a sort of staff to the Governor; they are his counsel, and are authorized by the constitution to advise him as to the constitutionality of any law, and as to the proper construction to be given to any provision of the State constitution. And the Governor, taking the advice of the creatures he himself appoints, may set aside any law passed by the Legislature of that State.

Not only that, the Governor of Florida is to appoint all the judges of the State — the supreme court judges and the circuit court judges. Not only that, but the salaries of these judges are fixed very high. They have more circuit judges in the little State of Florida than they had in the great State of Illinois when I first went there, with salaries of from three to four thousand dollars each, while in my State, at this time, judges get $1,000 salary with some petty fees. The supreme judges of Florida are to get $4,000 a year each, all being appointed by the Governor. More than that, the Governor appoints the sheriffs and justices of the peace for the whole State. Every sheriff and justice of the peace of the State of Florida is to hold his office at the beck and nod of Governor Reed, the postal agent of the Postmaster General. Who these various officers are to be I do not

know; we shall probably find out when we admit the State.

Mr. CULLOM. I desire to ask my colleague whether this constitution, with all the provisions to which he refers, was not submitted to the people and adopted by them?

Mr. FARNSWORTH. I was coming to that. I am aware that the argument will be made that this constitution, with all its provisions, was submitted to the people. So it was, and with all the Federal office-holders of that State in favor of it. They say it was adopted by the loyal votes of Florida. On the contrary, loyal men in Florida say that it was adopted by the rebel votes; for, mark you, this constitution provides that every man in Florida shall vote. Nobody is excluded from the right of suffrage under this constitution. Though a man be covered all over, from the crown of his head to the sole of his foot, with the sin of rebellion and the blood of our slaughtered soldiers, he can vote under this constitution.

There are many other things of which, if I had time, I would like to speak. I might refer to the apportionment of representatives. By this constitution representatives in the Legislature of Florida are apportioned in such a manner as to give to the sparsely-populated portions of the State the control of the Legislature. The sparsely-populated parts of the State are those where there are very few negroes, the parts

inhabited by the white rebels, the men who, coming in from Georgia, Alabama, and other States, control the fortunes of their several counties. By this constitution every county in that State is entitled to a representative. There are in that State counties that have not thirty registered voters; yet, under this constitution, every one of those counties is entitled to a representative in the Legislature; while the populous counties are entitled to only one representative each, with an additional representative for every thousand inhabitants.

I say to this House that there never was such a constitution framed by any State of this Union as that which has been framed by this so-called State of Florida. In my opinion, it will be wise, very wise for this House to reject the State of Florida until she shall come here with cleaner hands than she now presents.

Mr. Speaker, I do not desire to say anything further upon this question.

Mr. PAINE. Will the gentleman from Ohio (Mr. Bingham) yield the floor to me?

Mr. BINGHAM. How long a time does the gentleman desire?

Mr. PAINE. Ten minutes.

Mr. BINGHAM. Oh, yes.

Mr. PAINE. Mr. Speaker, it is not without

great reluctance and real pain that I find myself compelled to oppose that portion of the report of the committee which favors the inclusion of Florida in this bill. I would be strongly in favor of concurring in the amendments of the Senate with an amendment striking out Florida. The government of that State is to a considerable extent in the hands, and I understand is destined to be in the hands, of citizens of my own State, of some of whom I am the warm personal friend, and hence it affords me deep regret to be compelled, in the interest of what I believe to be justice and fair play, to oppose the inclusion of Florida in this bill.

As the bill passed this House it did not include that State. Florida has been ingrafted upon our bill by the Senate; and I rise now to oppose the Senate substitute so far as Florida is concerned, and to give to the House, as I am bound to, my reasons for opposing it. I can do no less than this, because it has been my duty as a member of the committee to scrutinize this constitution. I ought to explain to the House its character. After I have done that it will be for each member to decide himself whether he will or will not vote for concurrence.

Now, sir, in 1860 the census gave Florida a population of 140,425. Florida is inferior in wealth, and, I believe, in numbers, to the average congressional districts of the United States. I have no idea that there is in the State of Florida this day one half, if, indeed, there is one

third, of the wealth or the ability to bear the burdens of taxation that is to be found in the average congressional districts of the United States. At the last election 24,319 votes were cast. The number of registered voters was 28,003. This differs but little from the vote cast in the several congressional districts of the United States. I have a copy of the constitution of Florida in my hand, and from the provisions of that instrument relating to the appointment and election of the officers of the State I will show to the House what officers are appointed by the Governor with the consent of the Senate, what officers are appointed without the advice or consent of the Senate, and what officers are elected by the people, with the terms of each and their salaries, so far as they are fixed by the constitution. Of all the officers of that State the Governor, Lieutenant Governor, Legislature, and constables alone are elected by the people. The following officers are to be appointed by the Governor by and with the advice and consent of the Senate: one chief justice for life, with a salary of $4,500; two associate justices for life, at a salary of $4,000; seven circuit judges for eight years, with salaries to be fixed by the Legislature; thirty-nine county judges for four years, with salaries to be fixed by the Legislature; seven State attorneys for four years, with salaries to be fixed by the Legislature; thirty-nine sheriffs for four years, with salaries to be fixed by the Legislature; thirty-nine circuit court clerks for four years, with salaries to be fixed by the Legislature; one sec-

retary of State for four years at a salary of $4,000; one attorney general for four years, with a salary of $3,000; one comptroller for four years, at a salary of $3,000; one treasurer for four years, at a salary of $3,000; one surveyor general for four years, at a salary of $3,000; one superintendent of public instruction for four years, at a salary of $3,000; one adjutant general for four years, at a salary of $3,000; one commissioner of immigration for four years, at a salary of $3,000; two major generals, term and salary not fixed; four brigadier generals, term and salary not fixed; all militia officers in the State; thirty-nine county assessors for two years, salaries to be fixed by the Legislature; thirty-nine county collectors of taxes for two years, with salaries to be fixed by the Legislature. All these officers are to be appointed for that insignificant State, probably inferior in population, and certainly inferior in wealth, to the average congressional districts of the country, by and with the advice and consent of the Senate, and all the salaries which I have indicated are fixed by the constitution.

I come now to the list of officers to be appointed without the consent of the Senate. They are thirty-nine county treasurers for two years; thirty-nine county surveyors for two years; thirty-nine county superintendents for common schools, each for two years; one hundred and ninety-five county commissioners, each for two years; and as many justices of peace as the Governor may see fit to appoint, each holding his

office for life, or at the pleasure of the Governor.

The Governor is chosen by the people for the term of four years, at a salary fixed by the constitution at $5,000. The Lieutenant Governor is chosen by the people for four years, with a salary fixed by the constitution at $2,500. Fifty-three representatives are chosen by the people, each for two years, at a salary of $500, fixed by the constitution, beside mileage. Twenty-four Senators are chosen by the people for four years, at $500 salary, fixed by the constitution, beside mileage; and constables are to be chosen by the people, one for every two hundred people. These are the officers to be elected by the people.

* * *

(3091)

Mr. BUTLER. Mr. Speaker, I have only the interest in the State of Florida that any other gentleman in the House has; and I only desire a few moments to relieve the provisions of this bill from the argument to prejudice which my friend has put before the House; for after all it is an argument to prejudice.

In the first place, let us examine the method of amending provided for by the constitution of Florida, which he thinks is highly improper and detrimental to the interests of a republican form of government. It is exactly the provision contained in the constitution of the State of Massachusetts; it is exactly the provision of

the constitution of the State of New Hampshire; and in Massachusetts we have five times amended our constitution when we have found it necessary. Besides, in New Hampshire it takes two thirds of the people, as my friend from New Hampshire suggests. The fact is that the good people of Florida have taken the old constitution of Massachusetts, New Hampshire, and Maine, and have ingrafted provisions suitable to their condition upon it, and made it their constitution; and the argument made here goes exactly to the constitutions made by our fathers in 1789, and so downward, under which we have lived and grown to man's estate, without being aware we were not living under a truly republican form of government.

* * *

(3092)

Mr. BUTLER. And which I did answer as well as I could.

I now desire to go a little further into this matter. General Meade went down there and sustained the convention. After that the constitution was submitted to the people, and the people ratified it by a majority almost two to one.

What was done next? The Legislature of that State got together and ratified the fourteenth constitutional amendment. On the 15th of this month that Legislature is to elect offi-

cers; and on the 16th United States Senators are to be elected.

* * *

(3092)

Now let me answer the statement of the gentleman from Illinois on my right, (Mr. Washburne.) He said he would remit Florida back to its territorial condition. Very well, gentlemen, if you will put all these southern States back into a territorial condition I will go with you. But if you are going to rehabilitate any of these States after their rebellion then serve all alike.

When Texas was admitted into the Union she was admitted with two members of Congress and twelve thousand voters. And it is now proposed by some gentlemen to cut up that State into two, three, or four States.

But time presses, and I must speak briefly on these different points. In the first place, this State organization of Florida has the approval of General Meade. In the next place, it has the approval of the Judiciary Committee of the Senate, and of the Senate. In the third place, it has the approval of a majority of the Reconstruction Committee of this House. Now, are these men all so deceived, and is all virtue—no, I will take that back — is all knowledge of the subject confined to my friends from Illinois, (Mr. Washburne and Mr. Farnsworth,) and my friend from Wisconsin, (Mr. Paine?)

All these arguments, all these statements, all the provisions of this constitution have been submitted to the Judiciary Committee of the Senate, and they have found the constitution republican and proper. This constitution has been submitted to the Senate, and they have found it republican and proper. It has been submitted to your own Committee on Reconstruction, and they have found it republican and proper, and have reported it to this House. Now, if you set the example of going back on the matter of reconstruction, I have no doubt there are a good many ready to follow that example. If I were to follow my own ideas altogether, unrestrained by party associations, upon this as a mere matter of policy, I should doubt very much the policy or rehabilitating any one of these southern States. But I hold it as a question of policy as to when these States should be admitted, and not a question of principle, and upon that I feel bound by my party ties. Therefore I shall vote for this bill. I shall hope to see Florida again represented in Congress. I consider that State more certain for the Union and more determined against rebellion than any other of these States, because into that State have gone a great number of northern emigrants to settle there, and she is more sure for the Union that any other southern State.

(Here the hammer fell.)

Mr. HULBURD. Will the gentleman from

Ohio (Mr. Bingham) yield to me for a few minutes?

Mr. BINGHAM. I will yield to my colleague on the committee for ten minutes.

Mr. HULBURD. Mr. Speaker, when the matter of Florida originally came before the Committee on Reconstruction I concurred with my colleagues on that committee in opposing its admission. And when we originally reported this bill to the House the State of Florida was not embraced in it. There were objections made to the constitution which led me to vote against it.

Since that time the constitution then objected to has been submitted to the people of Florida, and they, as has already been stated, by a vote of nearly two to one, have accepted that constitution, and ratified it so far as they could ratify it. They now ask that we should admit them into the Union under that constitution.

Now, my friend from Wisconsin (Mr. Payne) objects to some of the provisions contained in that constitution, especially the provision conferring so sweeping an appointing power on the Governor. To that argument the gentleman from Massachusetts (Mr. Butler) has very well answered that the appointing power vested in the Governor under the constitution of Florida is no greater than that formerly exercised by the executive in the New England States and in the State of New York. The real reason for

this vesting the appointing power in the Governor of Florida has not yet been stated. I propose briefly to state it, that members of the House may understand the reason for this apparent anomaly.

Among the thirty-nine counties of the State of Florida there are several in which rebel voters are now in the ascendency. If they are allowed to erect their county organizations by electing county officers it will be done by rebel hands, under rebel auspices, and for rebel purposes. Now, there has been vested in the hands of the Governor the power to make these appointments to insure loyal Union organizations in all the counties. Is not that right, and therefore proper? I do not understand that Governor Reed, the Governor-elect, is charged by anybody with being in sympathy at all with disloyalty or rebellion. His nominations, therefore, will be in the interest of loyalty, of patriotism, of Unionism. It is urged that if these appointments are thus made and have four undisturbed years to run all the counties, including the now rebel counties, will become loyalized and Unionized, so that thereafter they will be true and loyal, part and parcel of a loyal State. Is not that desirable? Is it not worth an effort?

* * *

(3093)

Mr. HULBURD. Sir, the people of the State of Florida have not made the tremendous mis-

take that was made at Baltimore in 1864, by selecting for their second officer a thing who cannot be trusted in case the executive power should devolve upon that officer.

Mr. BROMWELL. But does not the whole thing depend upon one man's fidelity; and if he should die is the man who would succeed him as good as he is?

Mr. HULBURD. He is, I believe, an honest and true, capable loyal man. But, sir, this whole objection arises, as I understand, because a citizen of Illinois went down there and did not succeed in obtaining the majority which he expected. When he went before the people and asked that his particular views and representations should be carried out he succeeded in getting elected only six members of the Assembly. If that Illinois man had succeeded in getting the control of the organization of the State doubtless there would have been no objection here now to the admission of the State, for she cannot be kept out longer on any principle of consistency, I had almost said of decency.

Mr. BROMWELL. I wish to say, so far as I am concerned, that it has nothing to do with this matter what the performances of Mr. Richards have been there, and I have never had any idea that his welfare had anything to do with this matter.

Mr. HULBURD. The constitution of Florida was approved by General Meade, and I say now

approved by a majority of the Committee on Reconstruction of this House, who were formerly opposed to its adoption. Is there any good reason, founded on fundamental principle, why this House should not now approve of this bill as amended by the Senate?

Mr. FARNSWORTH. My friend will say when the Committee on Reconstruction approved of this constitution of Florida.

Mr. HULBURD. If it were right I could state what occurred in the committee-room. If my friend will allow me, I will do so.

Mr. FARNSWORTH. I do.

Mr. HULBURD. I understood my friend from Illinois to say in the committee-room this morning that he regarded the constitution of Florida as the best constitution that any of the southern States had adopted.

Mr. FARNSWORTH. The gentleman is entirely mistaken. I never made any remark like that, and the gentleman is mistaken.

Mr. HULBURD. I understood the gentleman to say that it was the best constitution that had been adopted by any of the southern States.

Mr. FARNSWORTH. I never said anything of the kind.

Mr. HULBURD. What, then, was the gentleman's remark and to what did it apply?

Mr. FARNSWORTH. I may have made a remark in reference to Alabama.

Mr. HULBURD. I was under the impression the gentleman also made this remark in reference to the constitution of Florida.

Mr. FARNSWORTH. The gentleman will do me the justice to say that I said nothing of the kind in reference to the constitution of Florida.

Mr. HULBURD. I did so understand the gentleman; but of course I may have been mistaken.

Mr. FARNSWORTH. The Committee on Reconstruction have unanimously and repeatedly declared against this constitution of Florida.

Mr. HULBURD. Yes, they have; but not since the constitution was submitted and sanctioned by the people.

Mr. FARNSWORTH. Repeatedly; and they do now; but they say that we had better admit the State.

The SPEAKER. The ten minutes of the gentleman from New York have expired.

Mr. BINGHAM. I yield to the gentleman from Illinois.

Mr. BAKER. I wish to say, Mr. Speaker, that as this legislation involves some large questions of law and policy, and as three or five minutes are too short a time in which to discuss them, I will content myself with asking leave to print some remarks on this and the Arkansas bill.

There was no objection; and it was ordered accordingly. (See Appendix.)

Mr. BINGHAM. Mr. Speaker, I do not desire to delay the House with an extended discussion of this bill. I desire to obtain the action of the House speedily on the bill; and having stated very briefly my own views touching the bill, and the reasons why it should pass the House, I will call for the previous question.

* * *

(3097)

The question recurred on concurrence in the amendments of the Senate.

Mr. BOYER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 111, nays 28, not voting 50; . . . .

* * *

So the amendments of the Senate were concurred in."

June 25, 1868, page 3466, Congressional Globe

SOUTHERN STATES—VETO.

The message further announced that the President of the United States having returned with his objections the bill (H. R. No. 1058) to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress, to the House of Representatives, in which it originated, the House had, in conformity with the Constitution, proceeded to reconsider the bill, and having passed the same by a two-thirds vote, the objections of the President to the contrary notwithstanding, transmitted it, with the President's objections, to the Senate.

June 30, 1868, page 3601, Congressional Globe

We have settled by an act which we passed a few days ago the condition of Florida. We have declared that that State, under a constitution which was submitted to us and examined, was entitled to representation in Congress when she ratified the constitutional amendment known as article fourteen. That act has passed both Houses of Congress and is the law of the land.

June 30, 1868, page 3602, Congressional Globe

But we have passed a law by which we have

said to the State of Florida, "You have organized a State government which is entitled to representation in this Congress, and we will receive your representatives when you send them here, and ratify the constitutional amendment which we name the fourteenth article." They send us here the evidence of that fact, and send the members here, and now the Senator from Maine suggests that we shall wait until the Secretary of State proclaims something about it.

June 30, page 3607, Congressional Globe

The PRESIDENT **pro tempore.** The question now is, Shall the Senator from Florida be permitted to take the oaths with a view to take his seat in the Senate of the United States? on which question the yeas and nays have been ordered.

Mr. CORBETT. I desire simply to say that considering the question as having been decided by the Senate, I shall now vote for the admission of the Senator from Florida.

The question being taken by yeas and nays, resulted—yeas 34, nays 6.

* * *

So the motion was agreed to.

The PRESIDENT **pro tempore.** The Senator-elect from Florida will please come forward and receive the oaths.

Mr. Osborn advanced to the desk of the President **pro tempore,** and the oaths prescribed by the Constitution and the act of July 2, 1862, having been administered to him he took his seat in the Senate.

June 30, 1868, page 3614, Congressional Globe

MEMBER-ELECT FROM FLORIDA

MR. STEVENS, of Pennsylvania. I present the credentials of Hon. Charles M. Hamilton, Representative-elect from the State of Florida, and I ask that he be sworn in.

MR. MAYNARD. I move that the credentials take the usual course, and be referred to the Committee on Elections.

This motion was agreed to.

* * *

July 1, 1868, page 3655, Congressional Globe

SWEARING IN OF A MEMBER

CHARLES M. HAMILTON, a member-elect from the State of Florida, appeared and was duly qualified as a member of the House of Representatives by taking the oath prescribed by law.

* * *

July 2, 1868, page 3672, Congressional Globe

SENATOR FROM FLORIDA.

Mr. HOWARD. I rise to a privileged ques-

tion. I present the credentials of Hon. A. S. Welch, one of the Senators recently elected by the Legislature of Florida a Senator in the Senate of the United States. I move that he be sworn in, and that the credentials be read.

The Secretary read the credentials,

* * *

The PRESIDENT **pro tempore**. It is moved and seconded that the Senator-elect from Florida be permitted to take the oaths.

The motion was agreed to.

The oaths prescribed by the Constitution and laws were administered to Mr. Welch, and he took his seat in the Senate.

14 EXTRACT FROM LETTER OF ED. R. S. CANBY, BREVET MAJOR GENERAL, TO THE ADJUTANT GENERAL, DATED JULY 10, 1868 (executive Document No. 13 of the 2nd Session 41st Congress, pages 16-19):

It will be seen, by General Orders Nos. 79 and 83, headquarters second military district, dated respectively May 2 and May 12, 1868, that the same decision was made more than a year ago, and that the members of the legislature and other elective officers under the constitution of the State, embraced in that district, who were unable to take the oath of office prescribed by law, would not be allowed to discharge any offi-

cial functions "until the disability has been removed by Congress, or unless the oath of office prescribed by the above-cited law (of July 19, 1867) shall have previously been dispensed with by law, or unless the said ninth section shall have become inoperative by the fact that the people of the State have been declared by law to be entitled to representation in the Congress of the United States;" and by General Orders No. 117, of June 26, and No. 120, of June 30, 1868, **that the laws of June 25, 1868, approving the constitution of several States** and authorizing certain action under them, was held to supersede or dispense with the oath of office prescribed by the law of July 2, 1862, and required by the ninth section of the law of July 19, 1868.

* * *

On the contrary, the joint resolution of February 6-18, 1869 and the passage of the law of April 10, 1869, before the approval of the constitution by Congress, and without dispensing with the requirement of the ninth section of the law of July 19, 1867, or prescribing another form of oath, appears to express very clearly the intention of Congress that this requirement should be enforced until the constitution **had been examined and approved by that body.**... With two exceptions, all the decisions of the General of the Army relating to the qualifications of voters or officers that I have been able to find were made subsequent to the passage of the law of **June 25, 1868, and applied to the**

constitution which had already been approved by Congress.

. . . . The second is that of April 29, 1868, in relation to Georgia, and also applies to the qualifications of officers, and the enforcement of the test oath **after the approval by Congress of the proposed constitution.** . . .

In the second military district I held that if the legislature of a State assembled before its constitution had been approved by Congress, it must do so under the conditions imposed by the reconstruction laws; and, to avoid the embarrassment resulting from this complication, the meeting of the legislature of South Carolina, as appointed by the convention, was postponed by General Orders No. 82, of May 12, 1868, "until after the Congress of the United States **shall have approved the constitution under which it was elected.**" The decisions, June 30 and July 8, 1868, although applying to the qualifications of officers after the approval of the constitution under which they were elected, are decided as to the character of the governments, until the conditions of reconstruction are fully complied with.

15 EXTRACT FROM LETTER OF GENERAL GEORGE G. MEADE TO BREVET MAJOR GENERAL JOHN A. RAWLINS, DATED OCTOBER 31, 1868 (Executive Document No. 13, 2nd Session, 41st Congress, pages 22-30):

The election for members of the constitu-

tional convention in Florida, having been held under the direction of my predecessor, he had advised the assembling of the same on the 20th of January, 1868. Prior to the assembling of the convention, I had referred to me, by the President of the United States, a memorial, sent to him by the provisional governor of the State, and signed very unanimously by prominent citizens, in which the gravest charges were brought against the managers of the election, involving frauds of all kinds, and even charging the registration of the State, and the districting of the same, as having been fraudulently executed, the memorialists urging me to interpose my authority, suspend the meeting of the convention, and proceed to investigate the charges which they pledged themselves to prove. Upon examination of the law I could find no remedy short of congressional action, even should their grave charges be proved. I therefore made no change in the period fixed for the assembling of the convention, but ordered a board of officers to investigate the charges, notifying the memorialists of my action, and pledging myself to place before Congress all the testimony they might put before the board. It is hardly necessary to say, that when it was found the convention was allowed to meet and do its work the board had little to do; and after remaining in session for some weeks, and calling without avail on the signers of the memorial for their evidence, the board closed its session without having any charge proved of all those made. The convention met,

but soon after meeting there arose dissentions and bickerings, resulting in the secession of a large part of the convention, and the claim of both parties to be regarded as the legitimate convention. For some time I allowed these dissentions to proceed, not seeing clearly how I could act until I had found that the convention which had originally assembled, and which I had recognized as the legitimate body, had, by the secession of its members, been reduced below a legal quorum. When this arrived, I required this body either to bring in sufficient members to give them a legal quorum, or, failing in that, to accept certain terms of compromise, which, after reflection, I deemed just to both parties; or if this failed, I intimated I should assume the authority and proceed, in view of the impossibility of harmonizing the difficulties, to adjourn both conventions, and refer the points in dispute to Congress for such action as it might deem proper to take. The compromise proposition having been accepted, the two parts of the convention assembled, reorganized, and proceeded to frame a constitution, **which was subsequently ratified by the people and adopted by Congress.**
(Emphasis added)

16 EXTRACTS FROM LETTER OF ED. R. S. CANBY, BREVET MAJOR GENERAL, TO B. W. GILLIS, RICHMOND, VIRGINIA, DATED JUNE 26, 1869 (EXECUTIVE DOCUMENT NO. 13,

2nd Session, 41st Congress, pages 20-22):

First. That I have uniformly held that mem-

bers of the general assembly and State officers, to be elected on the 6th proximo, would be required to take, before entering upon the duties of their offices, the oath prescribed by the law of July 2, 1862, **unless the constitution should first be approved by Congress**, or the oath be otherwise dispensed with by law.

* * *

I have heretofore held and do now hold that **the approval by Congress of any proposed constitution makes it a part of the reconstruction laws**, and, to the extent that Congress directs or authorizes any action under it in advance of the admission of the State, dispenses with the provisions of any previous laws that conflict with it.

* * *

It is similar in import, and refers to the dispatch of March 2, and this has probably led to the confusion of dates. It is in answer to a communication from the commander of the third military district, and applies directly and apparently exclusively to the second paragraph of General Orders No. 61, third military district, of May 15, 1868, which provides that "inasmuch as said general assembly, should the constitution now submitted to the people of the State be ratified by them and be approved by Congress, is required to convene and adopt the proposed amendment to the Constitution designated as Article XIV before the State can be admitted to representation in Congress, it may

be decided that the members of the said general assembly are, while taking this preliminary action, officers of a provisional government, and as such required under the ninth section of the act of Congress of July 19, 1867, to take the test oath.

This decision must also be interpreted by the decision of January 13, and this I apprehend to be the proper rule of interpretation of all the correspondence upon this subject, as I have been unable to find any case in which the inquiry and answer did not relate to the status of these officers **after** the approval by Congress of the constitution under which they were elected. **The law of June 25, 1868, approving the constitutions of several States,** and authorizing specific action under them, was regarded by me as dispensing with the oath of office prescribed by the law of July 2, 1862, first as to the members of the general assembly, and, after the ratification of the constitutional amendment, to the other State officers duly elected and qualified under those constitutions.

* * *

. . . The qualification of the officers rests upon the same basis, and must be governed by the reconstruction laws until the constitution becomes the controlling law, and this does not obtain until it has been approved by Congress. . . . .

(Emphasis added)

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17 INTERNATIONAL LAW; SUBMERGED LANDS, TERRITORIAL WATERS AND BOUNDARIES.

The following statements on international law, relative to submerged lands, territorial waters and national boundaries, were made by recognized authorities on international law as indicated:

A. Emmerich de Vattel's "Le Droit des Gens" (London 1758), is a celebrated work on international law of the second half of the eighteenth century. Vattel made the following statement with regard to territorial waters and fishing rights (Professor Fenwick's translation, Volume III, pages 107 and 108):

> "The various uses to which the sea near the coasts can be put, render it a natural object of ownership. Fish, shells, pearls, amber, etc., may be obtained from it. Now, with respect to all these things, the resources of coast seas are not inexhaustible, so that the Nation to which the shore belongs may claim for itself an advantage thus within its reach and may make use of it, just as it has taken possession of the lands which its people inhabit. Who can doubt that the pearl fisheries of Bahrein and Ceylon may be lawful objects of ownership? * * *
>
> It is not easy to determine just what extent of its marginal waters a Nation may bring within its jurisdiction . . . But between Nation and Nation the most reasonable rule that can be laid down is that in general

the sovereignty of a State over its marginal waters extends as far as is necessary for its safety and as far as it can be effectively maintained; because on the one hand a Nation may appropriate only so much of common property, like the sea, as it has need for some lawful end, and, on the other hand, it would be an idle and ridiculous pretension to claim a right which a Nation would have no means of enforcing . . ."

B. George Friedrich von Martens' "Precis du Droit des Gens Moderne d' Europe," published in French in 1789 and translated into English by William Cobbett in 1795 under the title of "Summary of the Law of Nations," makes the following statement, according to the Cobbett translation, page 160:

"A custom, generally acknowledged, extends the authority of the possessor of the coast to a cannot shot from the shore; that is to say, three leagues from the shore, and this distance is the least, that a nation ought now to claim, as the extent of its dominions on the seas."

Martens, according to the translation, stated that:

"A nation may occupy and extend its dominions, beyond the distance maintained in the last section . . . and such dominion may, if national security requires it, be maintained by fleet of armed vessels."

Later, on page 165 of the translation, he makes the statement that the exclusive right of the coastal state to all sea products is recognized

" . . . within the distance of three leagues."

A German Edition of Von Martens published in 1796 at page 46 states:

> "Pfeffel in Principes du droit naturel, bk. 3, chap. IV, sec. 15, indicates the distance of three leagues as the now universal principle. This principle is now incorporated in many treaties, even though no cannon reaches that far, especially over the sea."

Martens, "Precis du droit des gens moderne de l'Europe", (2d ed., Paris, 1801), pp. 71-2, makes this statement:

> "Today all nations of Europe agree that, as a rule, the straits, gulfs and the marginal sea belong to it (the coastal state), at least as far as a cannon, placed on the shore, would carry. In a number of treaties the more extended principle of three leagues has even been adopted."

Riesenfeld makes the further comment regarding Von Martens on page 29 of his work:

> "It is probably no exaggeration to state that G. F. von Martens gave the theory of international law a new direction. He was the great model of all continental writers in the century which followed the appearance of the first French and German editions of his work. River calls him in his well-known Esquisse d'une histoire litteraire des systemes et methodes du droit des gens depuis Grotius jusqu'a nos jours, the true originator of the systematic and scientific study of the positive law of nations.
>
> Of the writers who succeeded him only a few war-

rant such high praise. Many of them have fallen into a deserved oblivion." * * *

C. Joseph M. G. de Rayneval in his "Institutions du droit de la nature et des gens" (Paris 1803), states that:

"The sea which washes the shores of a state is deemed to form a part thereof; its safety and tranquility render this property necessary; the sea must play the part of a bulwark. We could add that the bottom of the sea along the coasts can be considered as having formed a part of the continent and is therefore still considered as forming such part.

But the extent of this property is not determined by a uniform rule. Some fix it at thirty leagues, others only at three; others again fix it at the range of cannon placed upon the shore. Along the southern coasts of France the distance was ten leagues with regard to the moors."

In the 3rd Edition of Rayneval's works, edited by his son in 1832, we read (page 300):

"But the extent of this property is not determined by a uniform rule: some fix it at a hundred miles, others at sixty, and still others at three."

D. Riesenfeld in his "Protection of Coastal Fisheries under International Law," on page 33, states that:

"8. In his Das Europaische Volker-Recht (Berlin, 1817, pp 140-1) Theodore A. Schmalz distinguished

between the territorial sea in Europe and in the colonies, his theory being quite similar to that of B. S. Nau. While in the colonies large belts of the ocean were claimed, in Europe the practice was to the effect that the sea could be appropriated only within a cannon's range, a distance which arbitrarily, as he said, had been fixed at three leagues (lieues). One may note his reference to leagues instead of miles.

9. Julius Schmelzing, Systematischer Grundriss des praktischen Europaischen Volker-Rechtes (Rudolstadt, 1818) adopted Schmalz's statement almost verbatim (vol. 2, p. 13). In addition he cited Pfeffel who also had been von Martens' authority for the adoption of the three-league limit.

10. The celebrated Johann L. Kluber accepted the cannon-shot rule as the measure for the territorial sea in his Droit des gens moderne de l'Europe (Stuttgart, 1819, p. 200), but he noted that in many treaties—as for instance the Treaty of Paris (1763)—three leagues were accorded."

E. James Kent wrote his "Commentaries on American Law" in 1896 and on page 29 of this work, states that:

> "It is difficult to draw any precise or determinate conclusion, amidst the variety of opinion, as to the distance to which a state may lawfully extend its exclusive dominion over the sea adjoining its territories, and beyond those portions of the sea which are embraced by harbours, gulfs, bays and estuaries, and over which its jurisdiction unquestionably extends."

He then went on to state that "all that can rea-

sonably be asserted is that the dominion of the sovereign of the shore over the contiguous sea extends as far as is requisite for his safety, and for some lawful end."

F. G. Masse in 1844 published his "Le Droit Commercial Dans ses Rapports Avec le Droit des Gens" (Paris, 1844, Vol. 1, pp 114-15) and recommended the three-mile rule as the limit of the territorial sea, but he concluded (Vol. I, p. 14 and 15):

> "However, in practice this logical rule is not followed. Each people determines a certain distance in the ocean within which it exercises its authority and which constitutes the territorial sea for all who admit this determination. For the French coasts this distance amounts to two myriameters or five leagues in virtue of a customs law of the fourth of Germinal of the Year 11 (since the French revolution). Vessels that enter within such a radius and the merchandise they carry immediately become subject to French customs law. A great number of treaties fix this distance at 3 leagues."

G. In his "Draft Outlines of an International Code," published at New York in 1872, David Dudley Field adopted the view that territorial waters extended as far as three marine leagues (§28). The same rule was stated in the second edition of his Code (New York, 1876, §28).

H. William E. Hall published his celebrated "International Law" (Oxford 1880) in the lat-

ter one-half of the 19th Century. On page 126 he makes the following statement with respect to marginal waters:

"Generally their limit is fixed at a marine league from the shore; but this distance was defined by the supposed range of a gun of position, and the effect of the recent increase in the power of artillery has not yet been taken into consideration, either as supplying a new measure of the space over which control may be efficiently exercised, or as enlarging that within which acts of violence may be dangerous to persons and property on shore. It may be doubted, in view of the very diverse opinions which have been held until lately as to the extent to which marginal seas may be appropriated, of the lateness of the time at which much more extensive claims have been fully abandoned, and of the absence of cases in which the breadth of territorial water has come into international question, whether the three-mile limit has ever been unequivocally settled; but in any case, as it has been determined, if determined at all, upon an assumption which has ceased to hold good, it would be pedantry to adhere to the rule in its present form; and it is probably safe to say that a state has the right to extend its territorial waters from time to time at its will with the increased range of guns."

I. The American writer **Edwin F. Glenn in his "Handbook of International Law"** (St. Paul 1895) takes the following position:

"The jurisdiction of a state over its marginal waters extends from the shore to such distance as the power of the state is effective, the generally accepted dis-

tance, being a marine league (3½ English miles), is determined by the effective range of cannon . . . At the present time, however, the effective range of cannon has been very much increased, and modern guns are effective for at least double this distance; and there can be little, if any, doubt as to the absolute right of a state to extend its territorial waters to correspond with this increased range (p. 59)."

J. Gilbert Gidel in his celebrated treatise "Le Droit International Public de la Mer" published in Paris in 1934, gave a very comprehensive treatment to the entire question regarding the extent of the territorial seas. In volume III, page 151, he says:

"The alleged three-mile rule was the chief victim of the Conference (i.e. the Hague Codification Conference of 1930). Since then it is impossible to speak of the three-mile rule as constituting a rule of general positive international law. It can only be a rule governing internal affairs, for a certain number of states which have adopted it for the purpose of regulating a certain number of interests; the three-mile rule, as a rule of international law, can be no more than a conventional rule, applicable in the relations between the states which have bound themselves expressly to observe it. The three-mile rule exists only as a minimum rule with respect to the extent of the territorial sea. It is not a rule of international law without qualification..."